IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

CIVIL APPLICATION NO.422 OF 2007

IN

REVIEW PETITION ST. NO.2299 OF 2007

IN

WRIT PETITION NO.3680 OF 1993

Mr.Keshav Babanna Naik : Applicant

versus

Shri Nainaram premaji Choudhari

and others. : Respondents.

Mr.G.S.Godbole for the applicant.

Mrs.Anjali Helekar for the respondents.

CORAM : D.G.DESHPANDE

DATED : MARCH 29, 2007.

P.C. (IN CHAMBER).

1. Heard learned advocate Mr.Godbole,

appearing for the applicant/tenant and learned advocate Mrs.Helekar, appearing for the respondents/landlords.

2. The main petition was decided by me on 6th November 2006. Thereafter on 13th December 2006 an application was filed by the tenant for extension of time to vacate the premises by eight weeks. Before that he had filed Special Leave Petition on 6th December 2006. He did not disclose the fact of filing of SLP in his application in Court dated 13th December 2006 for extension of time by eight weeks to vacate. This application for extension of time or grant of time by eight weeks was disposed off by this Court on 20th December 2006 and six weeks time was granted. Then SLP came to be withdrawn on 3rd January 2007 with liberty to file a review application. Review Petition was filed and, this application, i.e. Civil Application No.422 of 2007, is for condonation of delay in filing the review petition.

3. The crucial question is, whether the delay has been satisfactorily explained. The learned advocate for the tenant Mr.Godbole drew

my attention in this regard to Para 8 of his application wherein explanation for delay is given. The para 8 of the application reads thus:-

> "The Applicants state and submit that the Applicant No.1 was residing at Pune and looking to the abovesaid facts the applicant was under bonafide impression that the period of limitation will start from the date on which the order passed by the Hon'ble Supreme Court and therefore they were under belief that still there is a time for filing the Review Petition. The Applicant states and submits that the reasons stated are bonafide and the applicant was diligent in persuading their Petition the time was consumed and the delay is occurred in filing the above said Review Petition due to above stated reasons. Therefore it is in the interest of justice it is necessary to condone the delay and to decide the Review Petition on merits."

This is no explanation at all much less

satisfactory explanation. On 3rd January 2007 when the SLP was withdrawn, no proceedings were pending before any Court, therefore, no question of being mislead about the time required for filing review petition. The contention of the applicant that he was under bonafide impression about the time required for filing review petition is totally bogus and false because he has been contesting his case for last 25 years through advocates. He also went to Supreme Court, filed SLP, then withdrew it and then in order to overcome this difficulty of explaining the delay, he has filed this review petition and this application in person. This is nothing but cleverful adopted tactics to overcome. There is absolutely no challenge. There is no explanation for delay. It can be seen that this is nothing but an attempt to delay in execution of decree. I am taking note of the fact that when the applicant applied for eight weeks time to vacate he himself on his own accord gave an undertaking to the court to vacate. But this is nothing to do with the said statement made by the applicant/tenant. The learned advocate Mr.Godbole also contends that as this application for condonation of delay and review petition are

filed in person, a lenient view should be taken. I do not find any force in this contention of Mr.Godbole because the litigant is clever enough to know his right and this is nothing but a device to invoke sympathy from the Court. In this view of the matter, the Civil Application No.422 of 2007 is rejected. Certified copy expedited.

[D.G.DESHPANDE,J]